

REMARKS

Claims 1-28, and 30-54 are pending in the present application. Claims 1-28, and 30-54 have been rejected. Claims 1, 3-5, 8, 11, 18, 21, 23, 24, 27, 28, 30-40, 43, 48-54 have been amended. No new matter has been added. Accordingly, claims 1-28, and 30-54 are now pending in the present application.

Claim Rejections - 35 USC § 101

The Examiner has rejected claims 1, 18, 23, 27, 30 to 40 and 49 to 54 as disclosing a mere nominal recitation of technology which fails to transform the underlying subject matter to the different state.

The Examiner also rejects claims 2 to 17, 19 to 22, 22 to 26, 28 and 41 to 48 as they are each dependent from the rejected independent claims.

The Applicant has proposed amendments to claim 1, 18, 23, 27, 30 to 40 and 49 to 54 by affirmatively reciting certain elements of the claims.

The Applicant submits that the claims, as presently presented, recite a clear transformation of the underlying subject matter to a different state.

Claim Rejections - 35 USC § 103

The Examiner has rejected claims 1 to 28, 30 to 54 as being unpatentable over Moskowitz et al (US 5,745,569) in view of Schur (US Patent 6,330,762). In particular, the Examiner has stated that Applicant suggestion of what the state may include as non-limiting and not explicitly expressed in the claimed invention.

In order to provide a clearer definition of “state”, the Applicant has amended references to the “state” of the software object in the claims to the “execution state”. Support for this amendment is found throughout the specification, and in particular on page 3 lines 21-25.

The Applicant has also amended page 3 of the specification to delimit the definition of “state” to further clarify the claims.

The Applicant submits that these amendments clarify the scope of the claims. Regarding the citations, Applicant makes the following remarks:

1. Applicant submits that Moskowitz et al only discloses encoded essential code resources that are stored in the static structure of the software. There is no disclosure, teaching or suggestion that a watermark is embedded in the execution state of a program. That is to say, there is no disclosure, teaching or suggestion of encoding that is only detectable by examination of the execution state of the software when a software is being run with the input sequence.

Accordingly, the Applicant respectively submits that, as Moskowitz et al does not disclose a feature of the invention as claimed in claim 1, Moskowitz et al can not be combined with Shur to arrive at the invention as claimed.

2. Furthermore, Moskowitz et al describes a system which prescribes where the encoded data or source is located (refer column 6, lines 18 to 20 of Moskowitz et al). Recognition or extraction does not involve any search for the location of the encoded resource. Therefore, Moskowitz et al does not disclose the step of

examining the execution state of the software objection when the software is being run with the input sequence.

Accordingly, the Applicant respectively submits that, as Moskowitz et al does not disclose a feature of the invention as claimed in claim 1, Moskowitz et al can not be combined with Shur to arrive at the invention as claimed.

3. Applicant further submits that a person skilled in the art would not combine Moskowitz et al with Shur.

In Shur, there is secret input; this input is used to locate the watermark when a proof of ownership is required; and the watermark extraction key is never revealed to the end user. This is the usual security model for keyed watermarking. Thus the secret input to the invention is never revealed in the user.

By contrast, Moskowitz et al discloses encoding an essential code resource as a media watermark. The code resource is extracted from the watermark at runtime, with user input providing the key for the extraction process. Thus the system of Moskowitz et al has a nonsecret key. This is an uncommon security model for watermarking.

Therefore, the Applicant submits it is not obvious how to combine the art of Shur with that of Moskowitz et al. To do so would mean somehow replacing the Shur media-watermarking technique for Moskowitz's preferred "stega-cipher" (column 5, lines 20 to 22) method for watermarking media.

In summary, for the reasons set forth above, Applicant respectfully submits that claims 1 to 28, 30 to 54 are patentable over Moskowitz et al (US 5,745,569) in view of Schur (US Patent 6,330,762).

Applicant notes that the Examiner considers claims 18 to 28 and 30 to 54 to be parallel with and contain the same limitations as claims 1 to 17. Accordingly, for the reasons above, the Applicant respectfully submits that Moskowitz et al and Shur can not be combined to arrive at the invention as claimed in claims 18 to 28 and 30 to 54.

In view of the above arguments, the Applicant respectfully requests reconsideration allowance of claims 1 to 28 and 30 to 54 as now presented.

CONCLUSION

Applicants' attorney believes this application is in condition for allowance. Should any unresolved issues remain, Examiner is invited to call Applicants' attorney at the telephone number indicated below.

It is believed that all of the pending Claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending Claims (or other Claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any Claim, except as specifically stated in this paper, and the amendment of any Claim does not necessarily signify concession of unpatentability of the Claim prior to its amendment.

Respectfully submitted,

December 22, 2008

/Joseph A. Sawyer/

Joseph A. Sawyer
Reg. No. 30,801

Customer Number 29141

(650) 493-4540

(650) 493-4549